

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

-against-

JAIRO HERRERA-BENAVIDES,

Defendant.

-----X  
GLASSER, United States District Judge:

On July 2, 2001, a judgment was entered convicting Jairo Herrera-Benavides after a jury trial of one count of conspiracy to distribute and possess with intent to distribute heroin and cocaine in violation of 21 U.S.C. § 846 and one count of distribution and possession with intent to distribute heroin and cocaine in violation of 21 U.S.C. § 841(a)(1). He was sentenced to concurrent terms of 188 months imprisonment, to be followed by five years of supervised release, and a special assessment of \$200 was imposed. His conviction and sentence was affirmed on appeal in a Summary Order issued on April 1, 2003. His motion for a certificate of appealability, made thereafter, was denied by the Court of Appeals in an order issued on February 3, 2006.

On June 12, 2006, acting *pro se*, he filed this motion which he styles a "Motion for Want of Subject Jurisdiction Pursuant to Fed. R. Crim. P. (12.B)(2) [sic] And This Court Has Jurisdiction to Hear Decide Pursuant to Title 28 U.S.C. 1331." There follows nine pages filled with variegated citations to cases which are sprinkled among paragraphs of simulated legalese, all of which are sadly misguided.

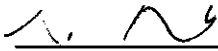
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U.S. DISTRICT COURT E.D.N.Y.  
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MEMORANDUM AND ORDER  
99 CR 1107 (ILG)

Even the most casual reading of this submission would compel the conclusion that the motion is "frivolous," see 28 U.S.C. § 1915(e)(2)(B)(i) and, as characterized in Denton v. Hernandez, 504 U.S. 25, 32-33 (1992) "clearly baseless," "fanciful," "fantastic" and "delusional" (internal citations omitted), and must be dismissed *sua sponte*, and it is.

SO ORDERED.

Dated:        Brooklyn, New York  
               June 12, 2006

  
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I. Leo Glasser

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Copy sent to:

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